

1 Q Please turn to Exhibit 19.

2 A Yes.

3 Q Exhibit 19 is a February 12, 1991, letter to you
4 from Michael Riley. Is that true?

5 A Yes, that is.

6 JUDGE STEINBERG: Let me identify it. It's a one
7 page letter, and as described by Ms. Lancaster, it's
8 identified as Enforcement Bureau Exhibit 19.

9 BY MS. LANCASTER:

10 Q Did you have any conversations with Mr. Riley to
11 the effect that you couldn't give Metro Mobile an interest
12 in the partnership itself because there might be a transfer
13 of control problem?

14 A No. This was just he returned -- I mean, at least
15 that's what I recall. I don't recall any conversation.

16 Q So not at any time subsequent to the signing of
17 the five percent option agreement did you have a discussion
18 with anyone at Metro Mobile, if not Mr. Riley someone else,
19 saying, "oh, we can't give you five percent of the
20 partnership because we might have a transfer of control
21 problem"?

22 A I don't know about that.

23 Q An ownership problem?

24 A I don't think that there was a subsequent
25 conversation subsequent to the agreement being signed about

1 that option.

2 Q Would you have been the only person that would
3 have handled this matter?

4 A No. I mean, it was the executive committee was
5 working on this, and we were also in touch with the counsel
6 on this. But I would say that I was a main person.

7 Q Well, when the different members of the executive
8 committee are contacting other parties on behalf of Alee,
9 would you have discussions among the executive committee
10 members as to what was discussed and when the discussions
11 took place, that sort of thing?

12 A Usually, yes.

13 Q So were you ever told of any other discussions
14 with anyone from Metro Mobile?

15 A You're talking about the option agreement?

16 Q Yes.

17 A I'm unaware of any other conversations with anyone
18 on the executive committee.

19 Q So you would have been the person who would have
20 negotiated the option agreement with Metro Mobile?

21 A I don't know that I negotiated. I worked on
22 documentation and -- in other words, I would get drafts of
23 it, go with -- I don't remember whether it was Neil
24 Goldberg. I think it was, but the terms that they would
25 build out and that they would get a five percent option, I

1 don't know that I specifically negotiated that as opposed to
2 Terry or Becky Jo.

3 I know that it was discussed that the partnership,
4 that was something under consideration. We got approval
5 from them.

6 Q Did you ever have any discussions within the
7 executive committee and/or the partnership regarding
8 offering an additional option, ownership option, to any of
9 the management companies?

10 A I don't recall. I mean, there may have been. I
11 don't recall off hand.

12 Q Well, did this option agreement, was it assigned
13 also to Bell Atlantic when Bell Atlantic took over Metro
14 Mobile's management contract?

15 A My initial impression was that it was.

16 Q In fact, you answered at deposition that it was,
17 didn't you?

18 A I believe that I did.

19 Q In fact, you answered at deposition that it's
20 still in effect, didn't you?

21 JUDGE STEINBERG: Well, let's not get into
22 deposition testimony unless his testimony here is different.

23 MS. LANCASTER: Okay.

24 JUDGE STEINBERG: But the answer was, Mr.
25 Bernstein said his initial impression was that the

1 management agreement, I guess in my words, was assumed by
2 Bell Atlantic or transferred to Bell Atlantic?

3 THE WITNESS: Yes.

4 JUDGE STEINBERG: What words would you use?

5 THE WITNESS: Yes, that it was transferred to Bell
6 Atlantic.

7 BY MS. LANCASTER:

8 Q Was it also assumed by Altell when Altell took
9 over?

10 A When you say assumed, did Altell assume that
11 they -- is that what you're asking me?

12 Q No. Was it assigned? Is the same option
13 agreement still in effect with Altell?

14 A It was my impression that it wasn't, but I'm not
15 certain in reading the documents. Metro Mobile and Bell
16 Atlantic built out the New Mexico system. Altell had
17 nothing to do with building out the system.

18 Q Is this a change in your testimony from what you
19 testified to at deposition?

20 A I don't recall specifically what I said at the
21 deposition. As I say, I'm not certain as to whether they
22 have an assignment of the option.

23 Q One moment. That you assumed originally it would
24 and you've evidently changed your mind?

25 A I've been --

1 JUDGE STEINBERG: Clarify that by saying was it,
2 and that it would, and --

3 MS. LANCASTER: Okay.

4 JUDGE STEINBERG: Please.

5 BY MS. LANCASTER:

6 Q I believe when I asked you whether the option was
7 in effect with Bell Atlantic and then subsequently I asked
8 you if it was still in effect, you prefaced your remark by
9 you initially thought that it was which indicated you have
10 since changed your mind. Is that a correct re-statement
11 of --

12 A Yes.

13 Q -- of your testimony?

14 A I have since questioned it, yes.

15 Q Well, what do you mean questioned it?

16 A I have re-read, and re-read, and re-read that
17 option agreement, and when in re-reading it, it talks about
18 it's not being assignable to anyone other than Metro Mobile
19 or its affiliates or subsidiary which I had not focused on
20 or remembered during our deposition. So I question that
21 whether the option agreement -- not the management or the
22 switch sharing, but the option agreement. I'm not certain.

23 Q I want to show *you* another document *that* I believe
24 I've already marked. Perhaps not. Hold on one second. I'd
25 like to show you what has been marked for identification as

1 Intervenor's Exhibit 6 and ask if you recognize that
2 document.

3 A (Reviewing document.)

4 Q Do you recognize it?

5 A It sounds very familiar.

6 Q Did you write it?

7 A I think that I did.

8 MS. LANCASTER: Your Honor, if Intervenor's
9 Exhibit has not already been --

10 JUDGE STEINBERG: If it has not.

11 MS. LANCASTER: -- received, with your permission
12 I would ask that it be received.

13 JUDGE STEINBERG: Okay. Any objection?

14 MR. HILL: Well, I'm troubled a little bit. This
15 was put in front of him. He says he recognizes it, and then
16 it's just asked to be moved into evidence.

17 JUDGE STEINBERG: Did this come from Mr.
18 Bernstein's files?

19 MR. HILL: I don't know, Your Honor.

20 JUDGE STEINBERG: Do you know?

21 MR. EVANS: It was produced in discovery.

22 JUDGE STEINBERG: From the books and records of
23 Alee?

24 MR. EVANS: Of Alee. I don't know whether it was
25 Bernstein's right now.

MS. LANCASTER: Your Honor, I believe Mr.

2 Bernstein just testified that he believes he did write it.

3 JUDGE STEINBERG: Did you? Is that what you said?

4 THE WITNESS: I believe so. I'm not sure, but I
5 believe so.

6 JUDGE STEINBERG: Okay. I'll receive the exhibit.

7 JUDGE STEINBERG: I guess if the intervenor's can
8 offer into evidence the bureau's exhibits, then the bureau
9 can offer into evidence the intervenor's exhibits.

10 MS. LANCASTER: I'm about to try another one.

11 JUDGE STEINBERG: This is the first time I have
12 ever see this.

13 BY MS. LANCASTER:

14 Q Mr. Bernstein, would you also look at what has
15 previously been marked Intervenor's Exhibit 7.

16 A (Reviewing document.)

17 JUDGE STEINBERG: Let's go off the record for a
18 second.

19 (Whereupon, a short recess was taken.)

20 JUDGE STEINBERG: Back on the record. Let me just
21 formally say that Intervenor's Exhibit 6 is received.

22 (The document referred to,
23 previously identified as
24 Intervenor's Exhibit No. 6,
25 was received in evidence.)

BY MS. LANCASTER:

2 Q Have you completed your review?

3 A Yes, I have read it.

4 Q In fact, there was discussion about offering -
5 was it Bell Atlantic at that time?

6 A '94.

7 Q Was the manager?

8 A Yes.

9 Q There was a discussion about offering Bell
10 Atlantic an additional equity ownership in Alee, wasn't
11 there?

12 A I guess there was. I don't know why I don't
13 remember this, but.

14 MS. LANCASTER: I would ask that Intervenor
15 Exhibit 7 also be received, Your Honor.

16 MR. HILL: I know it's getting late, but I didn't
17 even hear the witness say he even recognized seven.

18 JUDGE STEINBERG: Neither did I.

19 MS. LANCASTER: Okay.

20 BY MS. LANCASTER:

21 Q You wrote this, didn't you, Mr. Bernstein?

22 A I don't know. I can presume. It looks similar.

23 Q It's the same typeface as *the* exhibit I just
24 showed you, Exhibit 6, isn't it?

25 A Yes, it is.

1 Q When it talks in that particular memo, it talks
2 about the other members of the executive committee, the
3 person who wrote it contacting them for a discussion,
4 doesn't it?

5 A Yes. Yes. Then I see it says we even had a
6 conference call with John Banks and Terry Jones, Becky Jo
7 Clark, and myself. So it would have been me.

8 Q Thank you.

9 MS. LANCASTER: I ask that it be received into
10 evidence, Your Honor.

11 JUDGE STEINBERG: Mr. Evans, it's your exhibit.
12 You don't have any objection again to this?

13 MR. EVANS: I'm delighted that it's being offered.

14 MR. HILL: The same objection I made with respect
15 to number 6.

16 JUDGE STEINBERG: Okay. Overruled. Intervenor's
17 Exhibit 7 is received.

18 (The document referred to,
19 previously identified as
20 Intervenor's Exhibit No. 7,
21 was received in evidence.)

22 BY MS. LANCASTER:

23 Q So you were still talking back in 1994 about
24 offering an equity ownership interest to the management
25 company?

1 A Evidently so, yes.

2 Q Would you turn to Exhibit 20, please?

3 A Yes.

4 Q Do you recognize --

5 JUDGE STEINBERG: Why is that -- okay. Twenty was
6 rejected while you were out of the room yesterday.

7 MS. LANCASTER: I thought you said we could still
8 question about it, Your Honor, because there's litigation
9 pending.

10 JUDGE STEINBERG: Well, on an offer of proof
11 basis, and if you want --

12 MR. HILL: And the bureau has completed its offer
13 of proof the other day. I don't know at what point in time.

14 JUDGE STEINBERG: Yes.

15 MR. HILL: Mr. DeJesus.

16 JUDGE STEINBERG: Mr. DeJesus did say -- I mean, I
17 did ask him if this ends the offer of proof and he answered
18 yes.

19 MS. LANCASTER: So even though there's litigation
20 still pending about this, I'm not allowed to ask any
21 questions about it?

22 JUDGE STEINBERG: Well, the time to have asked the
23 questions was or the time to have made the -- was when we
24 spoke about it yesterday.

25 MR. DeJESUS: Your Honor, if I --

1 MS. LANCASTER: Am I allowed to ask him about the
2 pending litigation?

3 JUDGE STEINBERG: Yes. There were questions and
4 answers about that yesterday, about the pending litigation.

5 MR. DeJESUS: Your Honor, when the Court asked me
6 for the offer of proof basis, I thought it was with respect
7 to the witness that was being questioned which was Mr.
8 Jones. I never intended to bar any other witness from
9 addressing the issue.

10 JUDGE STEINBERG: Well, it's too late now because
11 I -- I mean, you had time to make the offer of proof, and
12 there was no indication to me that there's going to be any
13 examination of any other witnesses on that.

14 If you would like, you can prepare a typed up
15 document saying offer of proof in the form of an offer of
16 proof and say if we were to ask these questions, this is the
17 information that we would have developed. And you can put
18 it in the form of an exhibit, and it will go forward as an
19 offer of proof. Maybe this was the deposition testimony on
20 this?

21 MS. LANCASTER: Yes, sir.

22 JUDGE STEINBERG: Maybe you can pull it from the
23 deposition or put the pages in. I'll let you do that. If
24 you want to pull together the pages of the deposition with
25 respect to this matter and mark them as an exhibit, as an

1 offer of proof, then I'll -- we can mark it, and then I'll
2 reject it, and it'll go forward as an offer of proof.

3 MS. LANCASTER: Thank you.

4 JUDGE STEINBERG: Same thing with respect to any
5 other witnesses who we may have remaining.

6 MS. LANCASTER: Thank you.

7 JUDGE STEINBERG: Same thing for Mr. Evans if you
8 want to. Because you didn't ask anything yesterday.

9 MR. EVANS: Right. I think the solution that you
10 proposed probably takes care of it, but I don't see how Mr.
11 DeJesus could have even made an offer of proof with respect
12 to Mr. Jones on information --

13 JUDGE STEINBERG: Well, he could have said we've
14 got him -- we, I mean, at least notified him that we will
15 have questions of this nature. And if I remember Mr.
16 DeJesus' offer of proof was maybe one or two questions at
17 the most. It wasn't very extensive. But anyway, that's
18 what I'll let you do.

19 MS. LANCASTER: I'd like an exception on the
20 record to that ruling.

21 JUDGE STEINBERG: You don't need an exception on
22 the record because anything you don't like you can appeal
23 anyway. You don't have to do that anymore.

24 BY MS. LANCASTER:

25 Q Mr. Bernstein, are you aware that there is pending

1 litigation regarding the risk sharing agreement?

2 A Yes.

3 Q How are you aware of that?

4 A I know that discussions with counsel. There have
5 been several discussions regarding it.

6 Q This is pending where?

7 A I believe in the D.C. Courts.

8 Q In fact, the primary issue before the D.C. Court
9 is whether or not the risk sharing agreement is still valid
10 and binding upon the parties, is that correct?

11 A As I understand it, it's a declaratory judgment
12 that's being sought on that issue.

13 Q There's not been any ruling on that issue?

14 A Not to my knowledge.

15 Q The original parties to the risk sharing agreement
16 are parties in the DC circuit proceeding?

17 MR. HILL: If he knows.

18 JUDGE STEINBERG: Well, obviously.

19 MR. HILL: Yes, okay.

20 THE WITNESS: I don't know whether all of them
21 are, but I know that yes, that there are a lot of parties
22 that were in the original Algreg proceeding.

23 BY MS. LANCASTER:

24 Q Some of those parties are parties that were losers
25 and were not awarded a license in the lottery when Alee got

1 its license, is that correct?

2 A Yes.

3 Q It's my understanding that their position is that
4 they're entitled to participate in the earnings of the
5 licenses you won, is that correct?

6 A I understand that the licenses are sold. That
7 they wanted a portion of the sale proceeds that were gotten
8 from those licenses.

9 Q Do you have any idea what the current schedule of
10 that litigation is or the status of that litigation?

11 A I think that there was, I want to say, a motion
12 for summary judgment that's pending. I'm not sure.

13 Q You were a party originally. I mean, you signed,
14 you wrote it on behalf when you were -- strike that. You
15 voted to participate in the risk sharing agreement, didn't
16 you?

17 A Yes. I did.

18 Q Did everyone in Alee vote to participate?

19 A Yes, I believe so.

20 Q It's my understanding that you've also signed a
21 document entitled "Agreement to Rescind" the risk sharing
22 agreement, is that correct?

23 A Yes.

24 Q Did everyone in Alee sign such a document?

25 A Yes.

Q All of Alee's partner's is what I mean.

2 A Yes, to my knowledge, yes.

3 MS. LANCASTER: Your Honor, since I was not in the
4 room when the other exhibit was rejected, I'd like to know
5 if Exhibit 21 and --

6 JUDGE STEINBERG: Yes. They were rejected also,
7 and they go forward as an offer of proof, 21 and 22.

8 MS. LANCASTER: 21 and 22?

9 JUDGE STEINBERG: Yes.

10 MS. LANCASTER: Your Honor, has Exhibit 25 been
11 received?

12 JUDGE STEINBERG: Yes

13 MS. LANCASTER: Okay.

14 JUDGE STEINBERG: I don't have 19 as being
15 offered.

16 MS. LANCASTER: Okay. I would offer Exhibit 19 at
17 this point, Your Honor. I believe there's been testimony
18 from Mr. Bernstein identifying what this is.

19 JUDGE STEINBERG: Any objection?

20 MR. HILL: No objection.

21 JUDGE STEINBERG: Bureau Exhibit 19 is received
22 (The document referred to,
23 previously identified as EB
24 Exhibit No. 19, was received
25 in evidence.)

1 BY MS. LANCASTER:

2 Q Mr. Bernstein, were the partners polled with
3 regard to Alee's answers to the Enforcement Bureau discovery
4 request in this case?

5 MR. HILL: That's a very broad -- polled
6 concerning discovery requests.

7 JUDGE STEINBERG: Could you be more specific?

8 MS. LANCASTER: I don't think I need to be more
9 narrow. He would know if there's been any kind of a poll
10 taken with the partners to get specific information.

11 JUDGE STEINBERG: We 1, why don't you ask him
12 about him, whether he knows if he was.

13 MS. LANCASTER: Well he's on the executive
14 committee, so I'm assuming --

15 JUDGE STEINBERG: Well, don't assume.

16 BY MS. LANCASTER:

17 Q Were you ever asked whether you were a citizen by
18 anyone with regard to a response to the Bureau's discovery
19 in this case?

20 A I hadn't recalled at the time of the deposition,
21 but in speaking with Becky Jo, she said to me, "Bob, I spoke
22 with you about that." But I didn't have a specific
23 recollection.

24 Q So you've changed your testimony at this point
25 from the time when you testified at deposition?

1 A Yes, I have.

2 Q Which reminds me, did I leave a copy of the
3 deposition with you?

4 A Yes, you did.

5 Q Would you turn to page 176? The top of the page,
6 line one.

7 JUDGE STEINBERG: What page was that, please?

8 MS. LANCASTER: 76.

9 JUDGE STEINBERG: Thank you.

10 BY MS. LANCASTER:

11 Q Do you recall our discussion earlier when I asked
12 you whether the five percent option was still in effect?

13 A Yes.

14 Q I asked a similar question at the deposition on
15 page 176. I asked, question, "is the five percent option
16 still viable to the current manager of the facility?"

17 Answer: "I would assume so because there was an
18 assignment taken. There had been three managers, so it was
19 then assigned to Bell Atlantic and then assigned to Altell,
20 and I know that we're currently operating under the same
21 management agreement dated 1990, so I would assume that this
22 is still -- well, actually, after the Court of Appeals'
23 decision, I don't know."

24 But aside from the Court of Appeals' decision,
25 your assumption was that the option agreement had been

1 assigned to each of the managers, is that correct?

2 A That was my assumption, yes, at the deposition.

3 Q Page 5 --

4 JUDGE STEINBERG: Of the deposition transcript?

5 BY MS. LANCASTER:

6 Q Well, turn to page 254 of your deposition
7 transcript, please.

8 A Yes.

9 Q Line 11, question: "My understanding is that Alee
10 does not regularly conduct any due diligence corrects, is
11 that correct?"

12 Your response: "Not to my knowledge."

13 Question: "Okay, you would know if they did
14 conduct a due diligence check, wouldn't you?"

15 Answer: "I would think I would. I don't. I
16 don't know of any."

17 Question: "Do you recall responding to
18 interrogatories to Alee on behalf of Alee, FCC
19 interrogatories in this case, on behalf of Alee?"

20 Answer: "I recall, yes, the interrogatories and
21 responses were submitted, yes."

22 "Do you recall that the FCC interrogatories for
23 Alee asked if any of its partners, principals, or officers
24 had been convicted of a crime or plead nolo contendere, or
25 had a probation without judgment imposed? Do you recall

1 that?"

2 "Yes."

3 "It is my understanding that you did not ask each
4 of the partners before responding whether or not any of
5 those events had occurred before responding to the
6 interrogatories."

7 "Mr. Hill: By now 'you,' we're talking about Alee
8 or Mr. Bernstein?"

9 "Ms. Lancaster: I'm asking whether or not Mr.
10 Bernstein asked the partners his or her individual answer to
11 that question before Mr. Bernstein signed the response to
12 the interrogatories that were submitted."

13 "Witness: I didn't sign it."

14 "Ms. Lancaster: I thought you did."

15 Answer: "It was signed by Terry Jones."

16 Question: "As far as you know, did Mr. -- oh,
17 didn't you respond on some of the documents, no?"

18 Answer: "No."

19 Question: "My mistake. Were you not polled by
20 Mr. Jones then and asked this question, **is** that correct?"

21 Answer: "No."

22 Question: "As far as you know, did Mr. Jones ask
23 *any of the* other partners for this information?"

24 "I don't know."

25 Did I read that correctly?

1 A I believe so.

2 Q Were you polled before their responding, before
3 the answers were submitted?

4 A I was. As I said, I didn't remember. Becky Jo
5 had called.

6 Q And what was --

7 JUDGE STEINBERG: Let me ask, were there any
8 questions at the deposition as to whether or not Ms. Clark
9 polled Mr. Bernstein?

10 MS. LANCASTER: I don't know, Your Honor. We have
11 to look.

12 JUDGE STEINBERG: Because the questions and
13 answers that you read, did you ask specifically whether Mr
14 Jones -- okay, Mr. Jones signed the answers, correct?

15 MS. LANCASTER: Yes.

16 MR. HILL: Correct.

17 JUDGE STEINBERG: Okay, and the questions you
18 asked, you asked whether Mr. Jones -- unless you said Mr.
19 Jones or anyone else which I don't remember. But anyway,
20 that's just an observation.

21 BY MS. LANCASTER:

22 Q What were you asked?

23 A I don't recall the specifics of the conversation.
24 As I said, I haven't recalled

25 JUDGE STEINBERG: When you say "what were you

1 asked, "you are referring to what were you asked at the
2 deposition?

3 MS. LANCASTER: No, sir. I was --

4 JUDGE STEINBERG: Okay.

5 MS. LANCASTER: When he was supposedly polled, I
6 want. to know what he was asked.

7 JUDGE STEINBERG: Okay. Thank you because when I
8 heard "what were you asked," I jumped to what were you asked
9 at the deposition. Okay. Start again, please. It's my
10 fault.

11 BY MS. LANCASTER:

12 Q You don't remember being asked anything by
13 anybody, do you?

14 A I had many conversations with Becky Jo Clark about
15 this litigation and with Terry Jones. I hadn't recalled the
16 conversation about being polled on citizenship and felon,
17 and so on.

18 And subsequent to the deposition, I spoke with
19 Becky Jo Clark, and she chastised me, "Bob, don't you
20 recall. I polled everybody. Don't you remember the trouble
21 I was having reaching people, and I was under the gun." And
22 she went on and on that she had had a very difficult time.
23 It was a small amount of time.

24 I remember that she was having trouble getting
25 hold of the partners. I didn't remember it was in

1 connection with this polling issue that she was doing.

2 Q When was this polling that she was doing
3 supposedly taking place?

4 A This had to be several months ago, but I mean, in
5 this year.

6 Q Approximately when?

7 A I don't know, April or May. I don't remember. I
8 don't know when the conversations or the polling took place.

9 Q Do you have any independent recollection of this
10 polling at all?

11 A No, I don't.

12 Q So basically you're changing your testimony based
13 upon Ms. Clark coming to you afterwards and telling you she
14 did it, is that correct?

15 A Yes.

16 Q So at the time any polling would have taken place,
17 wouldn't you have been included in that polling effort?

18 A To get a call from Becky Jo Clark was not unusual
19 for me, and I would get calls from her on numerous things.
20 If she was asking about something, it just didn't dawn upon
21 me that that's what it was about.

22 Q That was not my question.

23 A All right. I'm sorry

24 Q If the executive committee decided that they
25 needed to poll the partners -- you were on the executive

1 committee. You've testified that the litigation related
2 activities of the executive committee are your primary area
3 of expertise and that you handle them for the most part. Do
4 you recall that testimony? I believe it's even in your
5 direct written statement

6 A Yes.

7 Q Wouldn't you have been a part of any decision to
8 poll the partners?

9 A I don't know that it was a decision as opposed to
10 a call. Becky Jo, you do this. Bob, you do that. I don't
11 recall.

12 Q Well, even a call saying, Becky Jo, you do this
13 and, Bob, you do that would have been a discussion among the
14 executive committee, wouldn't it?

15 A To poll the partners for interrogatories?

16 Q You would have to have a discussion about it when
17 you're deciding who's going to do the polling, wouldn't you?

18 A I don't know whether there was a discussion. I
19 don't remember anything about, you know, the discussion
20 whether it was -- whether Becky Jo got a call saying poll
21 the partners. I don't know how it came about.

22 Q You don't recall any conversation among yourself,
23 or Mr. Jones, or Ms. Clark saying we need to poll the
24 partners, is that correct?

25 A I remember meaning to get in touch with the

1 partners, Becky Jo telling me and being -- how frustrating
2 and how under the gun she was trying to get a hold of the
3 partners. But I didn't remember what she was getting a hold
4 of the partners -- whether she was polling them about
5 citizenship, felon, and so on. I don't remember that.

6 Q And you still don't really remember it, do you?

7 A No, I don't.

8 Q You don't remember ever being personally contacted
9 regarding that matter?

10 A I don't, no. I don't specifically remember.

11 Q Did you every review the responses that were filed
12 on behalf of Alee in this case to the Enforcement Bureau's
13 discovery requests?

14 A Yes, I did.

15 Q Why didn't you sign the responsive pleadings in
16 this case?

17 JUDGE STEINBERG: Do you mean the discovery
18 responses?

19 MS. LANCASTER: Yes, sir.

20 THE WITNESS: As I told you, it was a toss of the
21 coin. It was either Terry Jones or I. I think that Becky
22 Jo was going to be out of town or something.

23 BY MS. LANCASTER:

24 Q Well this is your area of expertise, right?

25 A Lega things, yes.

1 Q So wouldn't it have been more probable that
2 everyone would ask you to handle it.

3 A I don't know. I mean, we were signing on behalf
4 of the partnership. This wasn't, you know, legal advise.
5 This is signing factual things.

6 Q Kind of like signing that original application?
7 It was just a ministerial duty as far as you were concerned
8 and it didn't matter who did it?

9 A It was one of the members of the executive
10 committee who are responsible. It wasn't someone like Diana
11 Grumer who doesn't have as much contact.

12 Q So it's your response that there was no
13 conversation among the executive committee members as to who
14 was going to sign the discovery responses?

15 JUDGE STEINBERG: That's a mischaracterization of
16 what he said.

17 MS. LANCASTER: Okay, well, I'm asking him.

18 JUDGE STEINBERG: Well, you asked and the answer
19 was there was a toss of the coin and Terry Jones decided to
20 sign it. Isn't that your answer?

21 THE WITNESS: Yes.

22 JUDGE STEINBERG: So it was asked and answered.

23 BY MS. LANCASTER:

24 Q Are any of the current partners aliens?

25 A No.

1 Q How do you know?

2 A Because Becky Jo had polled the partnership.

3 Q Was there a document sent out --

4 JUDGE STEINBERG: You went through this this
5 morning.

6 MR. HILL: Thank you, Your Honor.

7 JUDGE STEINBERG: You did. Trust me. For that
8 there was --

9 MR. HILL: I object. Asked and answered.

10 MS. LANCASTER: I asked about a document being
11 sent out to the partners?

12 JUDGE STEINBERG: You asked about -- you covered
13 this area like a blanket.

14 MS. LANCASTER: Okay. One moment.

15 MR. HILL: I object, Your Honor, to switching
16 lawyers.

17 MS. LANCASTER: He's not going to ask questions of
18 the witness, Your Honor. He wants to --

19 JUDGE STEINBERG: What are you going to **do**?

20 MR. DeJESUS: I'd like to address the issue of the
21 offer of proof. When we spoke yesterday of the offer of
22 proof, it was to establish essentially the foundation for
23 admitting the evidence for Terry Jones,

24 Terry Jones, if memory serves me correctly,
25 couldn't confirm nor deny that he recognized the document,

1 so we at that point -- at least my understanding was that we
2 could establish a separate and independent basis for
3 admitting the evidence through another witness which is this
4 witness.

5 JUDGE STEINBERG: No. The objection was on
6 relevance, and it was sustained on relevance. And I said
7 you could make it as an offer of proof, and that way if my
8 ruling was incorrect, well, the fact that you want it to be
9 in the record would be in the record. And I gave you an
10 opportunity

11 MR. DeJESUS: But the basis would have been for
12 that particular witness, Mr. Terry Jones, and not this one.

13 JUDGE STEINBERG: Well, you did not say that. Why
14 don't you just do what I suggested and gather the material
15 and --

16 MR. DeJESUS: Okay.

17 JUDGE STEINBERG: -- make it an exhibit, and offer
18 it as part of the offer of proof. But the objection was
19 based on relevance.

20 MS. LANCASTER: I have no further questions, Your
21 Honor.

22 JUDGE STEINBERG: Off the record now, please.

23 (Whereupon, a short recess was taken.)

24 JUDGE STEINBERG: Back on the record. We will
25 recess for this evening, and then we will resume at 9:00

1 a.m. tomorrow morning. Thank you.

2 (Whereupon, at 3:45 p.m., the hearing in the
3 above-entitled matter was adjourned until October 25, 2002,
4 at 9:00 a.m.)

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1 REPORTER'S CERTIFICATE

2
3 DOCKET NO.: *WTCS 28*
4 CASE TITLE: *Alee Cellular*
5 HEARING DATE: *10/24/02*
6 LOCATION: *FCC Bldg.*
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8 I hereby certify that the proceedings and evidence are
9 contained fully and accurately on the tapes and notes
10 reported by me at the hearing in the above case before the
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